

Tuesday – May 8, 2007 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Diana Hollis Jones; Councilwoman Robin L. Cape; Councilman Jan B. Davis; Councilman Bryan E. Freeborn; Councilman R. Carl Mumpower; Councilman Brownie W. Newman; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Keisha Lipe

Absent: None

PLEDGE OF ALLEGIANCE

Representatives of the 9th grade student government of Asheville High School led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Jones gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 12, 2007, AS “STAMP OUT HUNGER NATIONAL FOOD DRIVE DAY”

Councilman Davis read the proclamation proclaiming May 12, 2007, as "Stamp Out Hunger National Food Drive Day" in the City of Asheville. He presented the proclamation to Post Master Danny Jones, President of the Asheville Branch Jeff Graznger, and Post Office Coordinator of the Food Drive Cassandra Scott, who briefed City Council on some activities taking place during the day.

B. PROCLAMATION PROCLAIMING MAY, 2007, AS “NATIONAL HISTORIC PRESERVATION MONTH”

Mayor Bellamy read the proclamation proclaiming May, 2007, as "National Historic Preservation Month" in the City of Asheville. She presented the proclamation to Ms. Sharon Fahrer, from the Montford Historic District, and Ms. Stacy Merten, Historic Resources Commission Director, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

Mayor Bellamy added an item to the Consent Agenda (Item “F”) regarding opposition to Wireless Telecommunications Facilities proposed legislation.

Councilman Mumpower requested that Consent Agenda Items “B,” “E” and “F” be removed from the Consent agenda for individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 24, 2007

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO DISPOSE OF AN INTEREST THE CITY HAS IN REAL PROPERTY LOCATED AT 24 GRAIL STREET

This item was pulled from the Consent Agenda for individual discussion.

C. RESOLUTION NO. 07-94- RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN ALLEYWAY OFF RICHARD STREET AND SET A PUBLIC HEARING FOR JUNE 12, 2007

Summary: The consideration of a resolution of intent to permanently close an alleyway off Richard Street and set a public hearing for June 12, 2007.

N.C. Gen. Stat. sec. 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, Joseph R. Bly has requested the City of Asheville permanently close an alleyway off Richard Street that runs between his properties on Richard Street.

Public Works Department staff has researched and determined this alleyway is not maintained by the City. Closure of this alleyway will not deny any of the adjoining property owners' reasonable means of ingress and egress as all adjoining property owners have joined in signing the petition requesting the alleyway to be closed.

Prior to the public hearing scheduled for June 12, 2007, agencies that may be affected by the closure of an alleyway off Richard Street will be contacted, including Utilities, City of Asheville Departments and the Greenway Commission.

Pros:

- The closure allows the property to be used to its maximum potential.
- There will be no future compromise of ingress/regress to other property

Cons:

- In consideration of the location of the alleyway, staff can find no potential challenges regarding the closure of the alley.

City staff recommends City Council approve a resolution of intent to permanently close an alleyway off Richard Street and set a public hearing for June 12, 2007.

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D. SUMMER YOUTH PROGRAM REVIEW

Summary: The City of Asheville is creating (CAYLA) City of Asheville Youth Leadership Academy to train and place Asheville youth in meaningful summer jobs within our community.

Component A:

The City of Asheville has traditionally funded a Summer Youth Employment Program. Over the past several years, the City has elected to contract with JobLink to administer the program. JobLink noticed us in late fall that they would not be pursuing renewal of their contract for this upcoming program year.

The Asheville City Schools (ACS) Foundation has expressed an interest to administer this program. ACS Foundation will provide two full-time VISTA (Volunteers in Service America) members for a total cost of \$11,000, representing a 36% cost reduction in administrative services fees for the coming year. The City will provide on-site supervision and office space for these individuals. The positions will be allocated as follows:

City of Asheville Youth Leadership Academy Coordinator: Develop and implement the City of Asheville Youth Leadership Academy; act as a liaison for youth, parents and community; establish, build and maintain relationships with local agencies to develop job opportunities for youth; identify and build partnerships with educational institutions to provide educational opportunities for youth.

Weed and Seed Service Project Coordinator – The West Riverside Operation Weed and Seed (WROWS) is a program designed to encourage community support and involvement in high-risk areas in order to improve neighborhood residents' quality of life; the program also functions as an outreach for at-risk youth. WROWS currently funds and employs a full-time Weed and Seed Site Coordinator. The Weed and Seed Service Project Coordinator (VISTA Position) will train and supervise up to 5 youth to work on weed and seed programs and assist the Coordinator as needed.

The City is creating this program with the following objectives in mind:

- To provide an employment experience that stresses the development and practice of real-world labor expectations;
- To bring greater awareness of the various support networks and programs available within the city's government and other community bases organizations;
- To provide opportunities for career instruction, financial literacy training and various academic and social supports.
- To mentor students about long-term career opportunities in public service, with the hope of preparing them for entry level professional careers in the Asheville area.

CAYLA student workers will be chosen by a committee from eligible applicants (10th to 12th grade) at Asheville High School. The committee will be comprised of educators and community leaders. Each student will be required to submit an application and at least two written recommendations to the committee. The committee may choose to interview the students, as well.

Students will be supervised by someone at the site of their job and will work 28 hours per week in the summer. Fridays will be set aside for workshops on leadership, community service, and career exploration. They will be paid through the City of Asheville payroll process, and will make approximately \$7 an hour, with a \$2,000 stipend set aside for college at the successful completion of this program. During the school year, students will be required to attend monthly community service projects held on the weekends.

Component B:

In recognition that this is the transition year, City staff is prepared to provide some level of continuation of City of Asheville Summer Youth Job Program for Summer 2007 as a bridge opportunity in order to transition to a CAYLA only model.

- This program will be available to 20 youth at \$5.15 per hour for 35 hours weekly for eight weeks. These youth would be placed in the Parks and Recreation department.
- Youth who were employed through Joblink last year (2006) and who successfully completed the program will be contacted about their interest in summer employment for 2007 bridge program. These youth will be given preference in the selection process.

This action aligns with the City's Strategic Plan: (1) This program supports the City Council's long-term strategic goal to develop strategies for youth and education programs; and (2) This program supports the City Council's long-term strategic goal of building intergovernmental relations among key governmental agencies.

City staff has included \$130,000 in the Fiscal Year 2007-08 budget for this program and your consideration. If approved, both programs can be completed. If council elects to fund the program at a reduced level, staff will adjust the scope of the program accordingly.

Staff recommends that City Council allow city staff to enter into a Memorandum of Agreement with the Asheville City Schools Foundation to administer the CAYLA program.

Staff recommends that City Council support the \$130,000 allocation request for this program in Fiscal Year 2007-08 in order to create CAYLA and provide final year of the Summer Youth Program for 20 students.

E. RESOLUTION AMENDING THE MEMBERSHIP STRUCTURE OF THE AD HOC PRITCHARD PARK COMMITTEE

This item was pulled from the Consent Agenda for individual discussion.

F. RESOLUTION EXPRESSING OPPOSITION TO SENATE BILL 831 - WIRELESS TELECOMMUNICATIONS FACILITIES, PROPOSED LEGISLATION UNDER CONSIDERATION BY THE NORTH CAROLINA GENERAL ASSEMBLY

This item was pulled from the Consent Agenda for individual discussion.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilwoman Cape moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Davis and carried unanimously.

ITEMS PULLED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO DISPOSE OF AN INTEREST THE CITY HAS IN REAL PROPERTY LOCATED AT 24 GRAIL STREET

Summary: The consideration of a resolution authorizing the City Manager to dispose of an interest the City has in real property located on Grail Street by private sale.

In 1990 the Housing Authority (the City's redevelopment agency) sold a house at 24 Grail Street and an adjoining parcel to Hospitality House of Asheville, subsequently renamed Homeward Bound of Asheville, as a transitional shelter for the homeless. The City also made a \$100,000 Community Development Block Grant (CDBG) to Homeward Bound to acquire and renovate the house.

The deed for each property includes a restriction whereby the ownership of the property reverts to the City of Asheville if it ceases to be used as a homeless shelter.

Homeward Bound has operated the properties as a shelter continuously for 17 years. Recently, Homeward Bound decided to focus on assisting the homeless to obtain permanent supportive housing rather than providing temporary shelter. Homeward Bound plans to sell this transitional shelter and use the sales proceeds to expand or replace its "A HOPE" day center, which is no longer large enough for its purpose.

Homeward Bound has found a buyer for the property, but is unable to convey it because of the existence of the deed restrictions. It has requested that the City remove the deed restrictions, in exchange for a commitment by Homeward Bound to use the proceeds of sale to

expand or replace its "A HOPE Center." According to the City Attorney's Office, the conveyance of the City's reversionary interest to a non-profit to promote a public purpose is authorized by law.

Pros:

- Directly supports implementation of the City and County's 10-year Plan to End Homelessness.
- Supports expansion of the A HOPE Center, which helps reduce the impact of homelessness on our downtown.
- Continues to support the broad objectives of the original CDBG grant.

Con: The only negative impact is the City surrenders its right to eventually re-possess property worth approximately \$225,000 to the CDBG fund.

Staff recommends City Council approve of the request subject to Homeward Bound using the proceeds of the sale to replace or expand the A HOPE Center.

After a brief discussion, Councilman Mumpower moved to refer this item to the City Council Planning & Development Committee and if necessary to the City Council Housing & Community Development Committee and bring it back before Council on May 15, 2007. This motion was seconded by Councilman Freeborn and carried unanimously.

E. RESOLUTION NO. 07-95 - RESOLUTION AMENDING THE MEMBERSHIP STRUCTURE OF THE AD HOC PRITCHARD PARK COMMITTEE

Summary: City Council has appointed the Pritchard Park Committee to lead a public process to gain citizen input on the current use, management and operation of Pritchard Park in order for the committee develop recommendations to Council for park enhancements. The City Council has the authority to make changes to its appointed committees. City Council has determined that it is in the public interest to change the structure of the Pritchard Park Committee. The change is that "The Pritchard Park Committee membership is hereby amended to include a representative of the Downtown Asheville Residents Network (DARN) to be appointed by the president of DARN."

Ms. Susan Griffin, Chair of DARN, expressed concern that there was no direct voice for DARN. She asked City Council to appoint Mr. Larry Holt to represent DARN or to give DARN the authority to appoint him.

Councilman Mumpower was concerned about the mission of the Committee. His understanding is that they will be looking primarily at the facility itself and it would be his contention that that is not the problem. The problem is the people abusing the park. The arrest records for those who abuse the park are dramatic and we should either expand the mission of this committee or create some other initiative to go after the core problem - the people that abuse it.

Mayor Bellamy said that we are not getting our money out of the complete usage of the park. Her concern is the number of people who use it as well as the types of services that are offered there and how the present day diversity of usage is wane. We are addressing the social issues with the Downtown Social Issues Task Force and on May 29, we will be listening to public comments on the issue of homelessness. She would like to see the utility of Pritchard Park increased and the diversity of the people who use the park increase as well.

Councilwoman Cape believes that we need to get back to the small committee of Recreation Advisory Board, the Downtown Commission with support of the Police Department to

look at the use and design of Pritchard Park and take the social issues out of the Pritchard Park Committee's hands because that is a large topic for perhaps a separate committee.

Mayor Bellamy suggested waiting to talk about the social issues part until after Council receives feedback from their community meeting on May 29 and identify key players who want to be involved in the bigger issue. In addition, she suggested the Pritchard Park Committee cease meeting until after the May 29 meeting until Council can clearly identify what the expectations of the Committee are. In the meantime, however, we will need to address enforcement and creative ways to deal with enforcement. We do have police presence in Pritchard Park, however, people still litter and do other illegal things in the Park.

Vice-Mayor Jones moved to adopt Resolution No. 07-95, to add Mr. Larry Holt as the DARN representative to the Ad Hoc Pritchard Park Committee. This motion was seconded by Councilman Newman.

Councilwoman Cape asked City staff provide Council with some best practices of how other cities handle this issue prior to May 29. She had an idea of a hall monitor in the park who would act as a caretaker and who would be able to be an intermediary with the police.

The motion made by Vice-Mayor Jones and seconded by Councilman Newman carried on a 6-1 vote, with Councilwoman Cape voting "no." In addition, it was the majority of Council's consensus to (1) ask the Pritchard Park Committee cease meeting until after May 29 until they get clear expectations of Council; and (2) instruct City staff to provide best practice scenarios prior to May 29.

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F. RESOLUTION NO. 07-96 - RESOLUTION EXPRESSING OPPOSITION TO SENATE BILL 831 - WIRELESS TELECOMMUNICATIONS FACILITIES, PROPOSED LEGISLATION UNDER CONSIDERATION BY THE NORTH CAROLINA GENERAL ASSEMBLY

Summary: The consideration of a resolution expression of opposition to SB 831 – Wireless Telecommunications Facilities, proposed legislation under consideration by the North Carolina General Assembly.

State Senator David Hoyle has introduced *SB 831 – Wireless Telecommunications Facilities*, a bill to preempt the authority of municipalities and counties in determining where cell towers should be located. Federal Communications Commission regulations would govern placement of these towers.

Under this bill, a city or town could not prohibit cell towers in residential areas or residential zoning districts and could not impose separation requirements between towers. No permit application fee or financial surety requirement could be imposed unless also required for other types of commercial development. The bill would limit the duration of any moratorium on placing additional cell towers in a jurisdiction.

The League of Municipalities opposes this legislation. City staff does likewise. Land use decisions are best made at the local level, based on the welfare of the community. Telecommunication towers have been carefully regulated in the City of Asheville to avoid aesthetic and public safety conflicts. This bill has the potential to have a significant negative effect on the aesthetics of the City and region, affecting our tourism and quality-of-life economy as well as potentially creating conflicts with City and regional emergency services communications.

Staff recommends City Council approve a resolution expressing opposition to SB 831 – Wireless Telecommunications Facilities, proposed legislation under consideration by the North Carolina General Assembly.

Councilman Mumpower said that from a procedural standpoint, since this was added on as a last minute item, he would vote against it.

Councilman Freeborn moved to approve Resolution No. 07-96. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting “no.”

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III. PRESENTATIONS & REPORTS:

A. CRIMESTOPPERS ANNUAL REPORT

Mr. Tom Sobol, President of the Crimestoppers Board of Directors, said that program started in 1983. He gave Council some brief statistics: budget of approximately \$72,000 a year (\$36,000 by the City and \$36,000 by the County); last year 396 calls came into the unit; out of those 396 calls, 111 arrests were made from the tips; and out of the 108 fugitives aired on the American Most Wanted program, 76 were either arrested or surrendered. Part of arrests were major tips that lead to one major bank robbery, several strong armed robberies, 3 major drug dealers and a recovery of multiple stolen vehicles. There were \$12,275 in payments were paid out by the board. The activities of Crimestoppers continue to help people in our community.

Mr. Sobol responded to various questions from Council regarding the amount of money to administer the Committee and how tips are handled. He said that he would be happy to send Council a copy of their entire budget, assuring Council that this is money well spent.

On behalf of City Council, Mayor Bellamy thanked Mr. Sobol and the efforts of the entire board of Crimestoppers.

B. TRANSIT SYSTEM FREE FARE PROMOTION REPORT

Transit Services Manager Bruce Black said that the following is a summary of the findings concerning the transit system free fare promotion from Mid August through Mid November, 2006.

- The Asheville Transit System fleet consisted of nineteen buses operating over 24 routes prior to and during the free-fare promotion.
- Four additional evening routes were added on July 1, 2006.
- The system serves Asheville, Warren Wilson College, Weaverville and Black Mountain. It connects with Apple Country Transit to serve Hendersonville.
- Ninety percent of the population in Asheville, where density exceeds 4000 people per square mile, is within ¼ mile of a bus route.
- Seventy-five percent of the population in Asheville, where density is less than 4000 people per square mile, is within ¼ mile of a bus route.

Ridership:

- Pre-promotion ridership has been growing at twice the national average.
- Ridership grew by 8.5 percent in Fiscal Year 2006.
- During the no-fare promotion ridership increased by 58 percent over the same period last year. Fifty percent of the 58 percent increase can be attributed to the fare-free promotion.
 - Number of trips transported during promotion period: 484,118
- Since the promotion ridership has increased by 19.4 percent over the same period last year. In round numbers:
 - Eight percent of the 19.4 percent increase can be attributed to the promotion.
 - Seven points of the 19.4 percent increase can be attributed to new evening service
 - Three points of the 19.4 percent increase can be attributed to normal growth
 - One point of the 19.4 percent increase can be attributed to the Passport program
 - Topeka Kansas exhibited a 5.6 percent post program growth after an increase of 83 percent during their fare free program
- After the promotion, evening service ridership has increased by 82 percent
 - Evening service is now transporting ½ as many trips per hour as the core daytime services.
- During the promotion the number of bicycle trips declined by 6 percent
- During the promotion the number of wheel chair trips increased by 14 percent
- Ridership for Fiscal Year 2007 is projected to exceed 1.4 million trips, up from 1.1 million trips in Fiscal Year 2006. This includes the additional riders during fare free.
- Ridership for Fiscal year 2008 is projected to exceed 1.38 million trips.

Performance Characteristics:

- The total number of complaints has declined from one in every 7,521 trips to one for every 12,500 trips after promotion ended.
- Forty two percent of all complaints by the 45th day of operation concerned buses running late.
 - During the promotion, on time performance was 89 percent.
 - After the promotion on-time performance for first quarter of 2007 rose to 97 percent overall.
 - The amount of time needed for each passenger to board decreased about 20 percent (From 4 to 3+ seconds)
 - The overall amount of boarding time increased due to the increase in passengers

- People used the bus for shorter distances increasing the number of times the bus had to decelerate to stop, and accelerate back into traffic.
 - 30 percent of riders transfer and can be affected by late buses.
- The major reasons for riding were:
 - The convenience of the system and not having another means of transportation.
 - Five percent stated that parking was a problem
 - One percent rode for environmental reasons
 - Seven percent stated that they were “Just Riding”
- Twenty one percent of passengers were unhappy with the crowded buses
- Ridership by those who had vehicles they could have used for the trip remained steady at 14%. This increase of 4 points over last year.
- The number of riders with incomes of \$10,000 and below increased 7.5% during fare free.
- Those in the \$10,000 and above range decreased by 7.5 percent.

Financial Impacts:

- There were no additional significant increases in direct operating expenditures during the promotional period
- Several transmissions had to be replaced post promotion
- The buses were used much harder and required more manpower to clean.
 - People were shifted from other tasks.
 - Maintenance did increase, but no additional people were hired.
 - Preventive maintenance that could legitimately be delayed was postponed
- Net increase in revenue from post promotion ridership levels and lower per passenger yield:
 - Fare box revenue per trip is down 6.7 percent December through March
 - Fare box revenue is up 10.2 percent December through March. Fare box revenue was up 11.8 percent July through August
 - Fare box revenue is projected to up 11percent for fiscal year.
 - Per trip revenue is projected to be down 6 percent for fiscal year
- The operating subsidy for promotion period operations were increased to replace fare box revenue lost:

Estimated net loss of bus fare revenue vs. last year:	\$ 96,300
Estimated net loss of Para-transit revenue vs. last year:	\$ 13,125
Cost of additional security:	\$ 10,000
<u>Cost of advertising:</u>	<u>\$ 12,000</u>
Total subsidy from City of Asheville:	\$132,125

Externalities:

The free-fare promotion had no direct effect on parking demand in downtown Asheville.

In summary, the goal of promotion was to gain permanent riders. 257,625 passengers during fare free transit promotion; 95,749 additional passengers; 10,500 of these were on evening service; and an increase of 59% over the same period this time last year.

Since the promotion, ridership is up 19.4%: 8% from the promotion; 7% from evening service; 3% from normal growth and 1% from passport program.

Complaints have decreased; on time performance has improved; ridership has increased and remains steady; record year for ridership; outperformed only other data we have for a similar promotion; and parking not affected by promotion.

Other considerations: price of gasoline; and stress on system and employees.

What has been accomplished: (1) explored the amount of demand that was constrained by economic concerns; and (2) explored the impact of very high transit demand on the existing system.

Recommendations: (1) in order to constrain short trips and overly casual use of the system, any future long term promotions should have a minimal fare (25 cents), (2) free days are still be viable for promotional purposes but should be tied to a community incentive such as red ozone days; (3) preparation for prolonged increases in demand make some activities, such as vehicle purchase strategic as well as operational; (4) the fleet should be enlarged as possible; and (5) a contingency fleet should be created.

Councilman Newman explained that the data observations show that Council made a good decision using the fare free policy as a promotional tool, rather than as an on-going policy. Over two years, the ridership has a projected increase of about 27%. That indicates to him that as we look at smart targeted improvements that the community is asking for, we can have some success around the transit system. If we continue to think about smart service level improvements, smart partnerships and creative marketing with the community, and if we can sustain the kinds of growth over the last two years, in the future these trends will become very important to the way Asheville looks in 10-20 years from now. We have laid the foundation for some future success.

Mr. Black responded to various questions/comments from Council, some being, but are not limited to: is there a general projection of where we will land at year end for operating revenue; is it true that riders are estimated to pay for about 16% of the bus service; have we seen an increase of monthly passes; can riders get monthly passes from the hub downtown and if not, why; where does the increase in ridership from the passport program come from;

Vice-Mayor Jones noted that while we lost revenue from the fare box during that 90 days we have had incremental income increases going forward that hopefully will be sustained.

Councilman Mumpower was concerned about how much we subsidize transit. He shared the concerns from the bus drivers of the fare free promotion as follows: (1) homeless people who have not bathed caused bad odor, fleas and unsanitary conditions and this is causing regular passengers unpleasant conditions while using the bus; (2) level of verbal abuse and bad language has increased considerably and is very difficult to control on the crowded buses; (3) increased passenger counts are causing elderly to have to stand at time and operators are concerned about their safety; (4) new passengers are not educated as to basic rules and some do not want to comply; (5) operators state that there is a need for more supervision and support to help handle the problems created by the fare free program; (6) schedules need to be adjusted in order to handle the overload and problems that are created by the fare free program; (7) operators state that it is becoming unbearable to handle the pressure of trying to operate the buses on schedule; (8) buses are not as clean and sanitary with the added passengers and hours of service; (9) students that should normally ride the school buses are using the transit buses which are causing regular and elderly passengers to have to stand - this is creating an unfair situation and also safety concerns and operators have no way of controlling this problem with the fare free program; (10) operators state that they are concerned about the wheelchair and handicapped passengers who ride regularly; (11) the over-crowding is creating safety concerns with these passengers; (12) operators are concerned about not being capable for maintaining the published scheduled and many passengers are missing their connections and have a lay-over time waiting on the next bus; (13) operators are concerned that the transit system is losing regular passengers that use the bus over the years because of the problems that fare free program is causing - operators believe that some of these passengers are searching for alternative means of transportation; and (14) operators state that working conditions and safety issues in which they are responsible for are not being recognized during transit planning on free fare issues. He feels that report is the reality of the fare free program.

In response to Councilwoman Cape, Mr. Black said that most of the bus driver's concerns have stopped with the end of the fare free program. Our biggest problem is getting a better on-time performance.

Councilman Newman requested additional information on the percentage of riders who are using our discounted monthly passes and what percentage of our overall ridership is that. He cited that the fare free program's benefit was getting new people to try transit and felt that tool should be an option kept in the toolbox for the future. However, in the future, he suggested the program run maybe a week or 30 days every few years as a way to have people try transit.

It was the consensus of Council to ask staff to (1) provide additional information on the percentage of riders who are using our discounted monthly passes; (2) compile current feedback from the bus drivers; (3) request the Energy & Environment Committee to provide additional information about free days being tied to red ozone days; and (4) provide information (including costs) for a one-day family pass to ride the bus.

Mayor Bellamy said that the other recommendations outlined by Mr. Black will be reviewed in the budget process.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE CONCERNING ENFORCEMENT PROVISIONS

ORDINANCE NO. 3467 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE CONCERNING ENFORCEMENT PROVISIONS

Mayor Bellamy said that this public hearing was originally scheduled on April 10, 2007, but continued to this date.

Mayor Bellamy opened the public hearing at 6:52 p.m.

Assistant City Attorney Curt Euler said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) concerning enforcement provisions. This public hearing was advertised on March 30 and April 6, 2007.

Section 18, Chapter 7 of the City of Asheville Code of Ordinances contains the enforcement provisions for dealing with persons who refuse to comply with the Chapter 7 of the City Code also known as the UDO.

City staff has undertaken a review of the enforcement provisions in an attempt to streamline the enforcement process and resolve violations in a more expedient manner.

These proposed amendments should lesson the time it takes from starting an enforcement action to the beginning a lawsuit, if the person refuses to come into compliance.

The highlights of the amendments are:

1. Making it a criminal offense to interfere to hinder, resist or obstruct a city employee attempting to enforce the UDO.
2. Requiring staff to send a Notice of Violation to both the tenant and owner at the outset of the enforcement action. This is to give both the owner and tenant a thirty (30) day period to appeal the notice of violation as opposed to giving the tenant thirty days to appeal and then having to give the owner a separate thirty days to appeal, thereby increasing the time for enforcement.
3. Allow staff to notify tenants and owners of civil citations through delivery confirmation as opposed to sending certified return receipt mail. Notices of Violation still must be served in person or by certified mail. This process makes it easier for staff to issue citations for violations.
4. Adding a one time large fine for persons who damage or destroy items or vegetation that cannot be replaced, for example cutting down a 50 year old tree or demolishing a historic structure without first obtaining the necessary permits. For example, the property owner who cuts down a large tree in violation of the UDO shall be assessed the large one time fine in addition to a civil penalty of \$100.00 per day until the landscape on the property is brought into compliance with 7-11-2.
5. The City amending the civil penalty for a violation of Chapter 7, Article XIII (sign violations) from \$50.00 for every 72 hours to \$100.00 per day.

Pros:

- Reduces the amount of time an enforcement action is maintained against a parcel of property.
- Protects staff from persons who actively resist investigations.
- Places a greater civil penalty for destroying items that cannot be replaced.
- Creates a uniform fine structure for most UDO violations.

CON:

- Property owners will be held more accountable for zoning violations committed by tenants.

Staff recommends City Council approve an ordinance amending Chapter 7 of the Code of Ordinances of the City of Asheville concerning the enforcement provisions.

Mayor Bellamy closed the public hearing at 6:55 p.m.

There was considerable discussion initiated by Councilman Mumpower about property owners being held liable for zoning violations committed by the tenants. Councilman Mumpower felt that we are placing authentic property owners at greater risk than seems appropriate.

Mr. Euler responded to Vice-Mayor Jones' comments regarding the reasoning behind our enforcement fines.

In response to Mayor Bellamy, City Manager Jackson said that he would check to see if our website can contain information where citizens can see if there is a violation on a piece of property.

When Mayor Bellamy asked what the appeal process is for neighbors who are impacted by the violations, City Attorney Oast said that the City cannot, by ordinance, give neighbors any greater standing to appeal than they have by law and that has to be established on a case by case basis. There is legislation pending currently in the North Carolina General Assembly that would change that so that anyone within 100 feet of a property where an issue arose could appeal, but they would automatically have standing. He said that we can provide in the ordinance that aggrieved persons may appeal as provided by the appropriate statute.

In response to Mayor Bellamy, Planning & Development Director Scott Shuford said that staff is looking at more enforcement of snipe signs and Council may not need to make any adjustments to strengthen the penalties under the nuisance ordinance.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Freeborn moved for the adoption of Ordinance No. 3467. This motion was seconded by Councilman Newman and carried on a 6-1 vote with Councilman Mumpower voting "no."

ORDINANCE BOOK NO. 23 - PAGE

At 7:15 p.m., Councilman Mumpower moved to go into closed session in order to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: City of Asheville, State of North Carolina, County of Buncombe, Reid Thompson, Greenlife Grocery of Asheville, LLC, Board of Adjustment and Asheville Metals Recycling. The statutory authorization is N. C. Gen. Stat. sec. 143-318.11 (a) (3). This motion was seconded by Councilman Freeborn and carried unanimously.

At 7:45 p.m., Mayor Bellamy stated that the closed session would be continued after the completion of the agenda for the regular meeting.

B. PUBLIC HEARING TO CONSIDER REZONING PROPERTY LOCATED AT 100, 105, 108-1/2, 115 AND 9999 FAIRVIEW ROAD, KNOWN AS THE WHITAKER HILL PROJECT, FROM CI COMMERCIAL INDUSTRIAL DISTRICT, RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING AND RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO URBAN VILLAGE DISTRICT FOR REVIEW

**OF THE CONCEPTUAL MASTER PLAN FOR DEVELOPMENT TO CONSIST
OF RESIDENTIAL AND COMMERCIAL USES**

**ORDINANCE NO. 3468 - ORDINANCE REZONING PROPERTY LOCATED AT
100, 105, 108-1/2, 115 AND 9999 FAIRVIEW ROAD, KNOWN AS THE
WHITAKER HILL PROJECT, FROM CI COMMERCIAL INDUSTRIAL
DISTRICT, RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY
DISTRICT/CONDITIONAL ZONING AND RM-8 RESIDENTIAL MULTI-FAMILY
MEDIUM DENSITY DISTRICT TO URBAN VILLAGE DISTRICT FOR REVIEW
OF THE CONCEPTUAL MASTER PLAN FOR DEVELOPMENT TO CONSIST
OF RESIDENTIAL AND COMMERCIAL USES**

Mayor Bellamy opened the public hearing at 7:51 p.m.

Urban Planner Alan Glines said that this is the consideration of an ordinance to rezone property located at 100, 105, 108-1/2, 115 and 9999 Fairview Road, known as the Whitaker Hill Project, from CI Commercial Industrial District, RM-16 Residential Multi-Family High Density District/Conditional Zoning and RM-8 Residential Multi-Family Medium Density District to Urban Village District for review of the conceptual master plan for development to consist of residential and commercial uses. This public hearing was advertised on April 27 and May 4, 2007.

The current proposal is to rezone to Urban Village district and approve a conceptual master plan for 30 acres along Fairview Road. The current zoning of the project area is CI Commercial Industrial, RM-16 Residential Multi-family High Density/Conditional Zoning and RM-8 Residential Multi-family Medium Density District. The property which is made up of 5 parcels lies on both sides of Fairview Road. The property includes two commercial buildings on the south side of Fairview Road which will be demolished. On the north side of the road the largest parcel has been cleared and graded because of the former proposal for a multi-family project. The master plan which shows the scale of the development and layout of streets and other infrastructure cannot substantially deviate from what is approved without returning to City Council for review of the changes. This master plan exists as the "big picture" guide for the development project.

According to the master plan submitted, this three-phase project proposes 118 buildings (including single family houses) with a total of 506 units at a density of 16.77 dwelling units per acre. In addition, the developer is expecting a full build out of 100,000 square feet of commercial space. The building heights in the urban village vary. Village center buildings are proposed to be up to five stories tall along Fairview Road. At other locations internal to the site, the heights will reach up to four stories. Where the urban village fronts with the existing Oakley neighborhoods along Stoner Road and Westview Avenue, the scale of the residential style buildings will be two or three stories. The residential character of the development will range from larger multi-family buildings down to single family homes. Live work units will also be provided as a part of the development. At this point in the review, specific details about building fenestration, the commercial uses for mixed-use buildings, and exact footprints are not provided. General character images however are provided for the project for mixed-use and residential buildings. The style will be similar to an older Asheville shingle style or craftsman style. The master plan indicates the general street network and land use configuration for the scale of development, as well as suitable open space, a range of building heights, setbacks and building types. The commercial node and area of highest density and building heights will be centered along Fairview Road as was mentioned. This area centered along Fairview Road, relating to the street should have the positive effect of slowing down the speed of traffic. In other areas of town such as Biltmore Village, similar urban development patterns have the effect of taming traffic. Besides the quantity of traffic along Fairview Road, fast moving traffic has been mentioned as a concern by residents of Oakley. The development has the benefit of providing several access points into area roads. The primary access is along Fairview Road, but the close proximity to Sweeten Creek Road is helpful for the development. A secondary access is along the lower end of Stoner

Road. The existing residences along Stoner Road should experience minimal impacts from traffic because traffic is directed to Thompson Street. Thompson Street will be the future site of the Wilma Dykeman Riverway planned along the Swannanoa River. A traffic impact analysis (TIA) was initiated for the development and studied intersections at the periphery of the development. The review at this point recommends some lane improvements at the intersection of Sweeten Creek and London Road and the intersection of Glendale Avenue and Thompson Street. The exact improvements along Fairview Road at the proposed access points will be determined by TIA amendments for each specific phase of the project. Finally a smaller access into the development has been recommended by the Technical Review Committee (TRC) for Westview Avenue. Connectivity can be a challenge in the community and this access point would be more for safety access instead a major point of access into the development. The transit system services this development through the number 12 bus line along Fairview Road. A bus shelter will be required for the development.

On Monday, March 19, 2007, the TRC held an informal review of the proposal. Staff and the TRC made specific recommendations on revisions needed for the master plan. On April 2, 2007, the TRC met and reviewed site plan and made some additional comments for the project. The majority of the conditions will be addressed in a more detailed review by the TRC as the phases of the development come forward.

The owner of 105 Fairview Road (Phase three of the site master plan) is including this property in the rezoning request but has a special concern. The property has been accepted by the North Carolina Department of the Environment and Natural Resources (DENR) into the brownfields program. The plan to remediate the site is being reviewed by DENR to include the urban development shown in the urban village. If the proposed uses are not accepted, the owner would like to withdraw the parcel from the rezoning and master plan and have it revert back to CI District (the existing zoning for the parcel). This will be a special condition that the owner would like to include as a part of the approval.

Recently, a community meeting organized by the Oakley Community was held and the project was discussed among other items. The primary concern with the proposal seemed to be traffic growth and the existing challenges with traffic along Fairview Road. The style or type of development was secondary to the traffic concern. Some people mentioned traffic calming efforts as something that would be beneficial for the community.

The Residential Multi-family Medium Density District (RM-8 district) is established to allow for a range of medium density residential options, integrating multi-family along with single-family attached and detached residences. This district is intended to provide a transitional area between high density single-family and multi-family areas and may allow some compatible non-residential uses as well.

The Residential Multi-family High Density District (RM-16) is established to permit a full range of high density multi-family development and associated institutional, public and commercial uses. Infrastructure capable to handle the demand related with the resulting intensity of use is required. It was applied to this property as a part of a conditional zoning for a higher density development approved in 2005 and was known as Biltmore Point.

The Commercial Industrial District (CI district) is intended for a wide range of commercial and industrial uses including warehouses and manufacturing and well as retail sales, offices and even residential uses. Similar to RM-16 described above, this district requires infrastructure capable to support the development to be build or in place. The residential limitation is 16 units per acre.

These three underlying zoning districts are not dissimilar from the proposed rezoning to Urban Village, in that the office, retail and full range of residential densities will be allowed and that the existing infrastructure will be fully capable of supporting the scale of development. The

advantage of rezoning the entire area to Urban Village provides better integration of these uses as well as a more cohesive master plan for the community.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

This rezoning was recommended for approval by a 7-0 by the Planning and Zoning Commission. Three people spoke at the Planning & Zoning Commission meeting and expressed concerns about scale, traffic, tree canopy loss and connectivity into the neighborhood. A recent community meeting held in Oakley provided some comments and concerns regarding traffic generation from the project. Others spoke about school crowding issues at Oakley School.

Pros:

- Provides a variety of uses and building styles similar to a traditional “sustainable” neighborhoods
- Infill redevelopment of previously disturbed sites revitalizes the area and locates development in an area where infrastructure already exists, resulting in efficient use of land
- Development proposes a wide mixture of housing types and an efficient use of land
- Presents a walkable community that can support transportation options
- Project is suitable to support transit and is located on an existing bus line
- Potential to be a ‘main street’ amenity with local businesses for the Oakley Neighborhood
- The neighborhood character is preserved by single family scale development at the edge of the urban village
- Traffic impacts could be mitigated through adequate design and multiple access points from the development

Cons:

- Existing block-style grading may prohibit connectivity between phases two and three (south of Fairview Road)
- Traffic growth is an issue for the neighborhood who already express concerns about speed and volume

At their April 4, 2007, meeting, the Planning and Zoning Commission voted 7-0 to recommend approval of the rezoning and the master plan. They also recommended that traffic calming be considered for Stoner Road. Staff concurs with these recommendations.

Mr. Chris Cole, representing the developer, spoke in support of the rezoning. He addressed the issue of transportation, noting that through design they will be able to mitigate the speed while maintaining the volume on these roads. They have budgeted specifically for the implementation of traffic calming measures on Fairview Road and the surrounding roads and they will work with the neighborhood and City staff to where they can most effectively utilize those dollars. He then spoke about the issues of greenbuilding and their progressive stormwater design.

Mr. Daryl Rantis, architect for the developer, spoke in support of the rezoning.

The following individuals spoke against the rezoning for various reasons, some being, but are not limited to: the access point on Westview Avenue will negatively affect the surrounding neighbors since Westview is a small, narrow road with a steep incline; concern that there will be a tunnel effect on Fairview Road through the development; volume of traffic will increase significantly along Fairview Road and surrounding roads; additional traffic calming measures on Fairview Road; impact on the school system; request that the master plan stay open for future amendments and input from the neighborhood; concern of lack of water with the new

development; concern that new homes will raise surrounding area property taxes for fixed income residents; and development will put a strain on providing City services:

Dr. Kelly Ivers, resident on Westview Avenue
Mr. Cory Black, representing over 100 families in the Oakley Community Association
Ms. Dodson, Oakley resident
Ms. Peggy Ray, resident on Winston Avenue
Mr. Jake Quinn, Asheville resident

At 8:22 p.m., Mayor Bellamy closed the public hearing.

In response to Councilwoman Cape, City Attorney Oast said that the City cannot charge impact fees for schools.

Councilwoman Cape initiated discussion regarding the tunneling effect on Fairview Road through the development. Mr. Cole explained the grade change, noting that you will not see 5 story buildings on Fairview Road. He said that they will decide, stylistically, every lot from colors, style and roof design.

In response to Councilman Mumpower, City Traffic Engineer Ken Putnam gave his objective analysis regarding traffic, noting that at full build-out in five years, the traffic study indicated 6,000 cars a day, however, a two-lane road can carry twice that much. He did note that there will be some work to bring the speed down on Fairview Road, which is 30 mph but the 85 percentile speed is 43 mph. In the study, we have left the door open for more studies to be done, either as amendments or new traffic impact studies as they bring the phases forward to us, so we can address their internal roadway network and address things on Fairview and Stoner Roads.

When Councilman Mumpower asked if the concept of the access point on Westview Avenue is doable, Mr. Putnam said that the concept came from the Fire Department and he believed that the access point on Westview is possible.

In response to Councilman Mumpower regarding water availability, Mr. Glines said that the water capacity was not noted as an item of concern from the Water Department representative at the TRC meeting.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Jones moved for the adoption of Ordinance No. 3468 to rezone property located at 100, 105, 108-1/2, 115 and 9999 Fairview Road, known as the Whitaker Hill Project, from CI Commercial Industrial District, RM-16 Residential Multi-Family High Density District/Conditional Zoning and RM-8 Residential Multi-Family Medium Density District to Urban Village District, along with the master plan and find that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The site development must comply with the conceptual master plan and other documents presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits and (6) Traffic calming should be considered for Stoner Road following traffic calming procedures and funded by the developer. This motion was seconded by Councilman Mumpower.

After discussion initiated by Councilman Newman regarding a condition to clarify the height of the buildings at street level on Fairview Road, Vice-Mayor Jones and Councilman Mumpower agreed to a friendly amendment as follows: "design of structures along Fairview Road shall be modulated to avoid a tunnel effect of tall buildings lining the roadway and enforced by City staff through approval of structure design and using computer generated models and other techniques to illustrate that variation."

In response to Councilwoman Cape's suggestion of specifying the ability to have more space for future widening Fairview Road, Mr. Cole said that one issue they face on both sides of Fairview Road is a dramatic fall off on one side and a dramatic build-up on the other side. They likely will excavate inward on the north side of Fairview Road and use buildings as retaining structures on the south side of Fairview Road. Their hope is to modulate the speed of the traffic on Fairview Road with a street section that they institute, whether that is one side on-street parking, a small medium in the middle of the road or perhaps a bike lane. The key for them is the ability to modulate the buildings so that they can afford a wide variation of square footages.

When Mayor Bellamy asked if there was any consideration to a lesser amount of units since 506 units is a big impact to the neighborhood, Mr. Glines said that we don't have a density cap in the Urban Village District.

Vice-Mayor Jones recognized that the concerns about tax valuation are real and last year the Council worked hard to be revenue neutral. She said that as land values go up, City Council will not take advantage of the tax rate.

The motion made by Vice-Mayor Jones and seconded Councilman Mumpower (with the friendly amendment regarding the design of the structures along Fairview Road) carried on a 6-1 vote, with Mayor Bellamy voting "no."

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Councilman Newman moved to change the agenda and discuss the New Business Items next. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

V. UNFINISHED BUSINESS:

A. REPORT ON CREATION OF AN INDEPENDENT AIRPORT AUTHORITY GOVERNANCE STRUCTURE

Airport Director David Edwards said that the Asheville City Council approved a resolution on November 14, 2006, to explore the feasibility of creating an independent authority governance structure through the General Assembly of North Carolina for the Asheville Regional Airport. The County of Buncombe approved a similar resolution on December 5, 2006.

Over the last several months staff and certain elected and appointed officials of the City, County and Airport Authority have reviewed numerous items related to the creation of an independent airport authority. While this information is being conveyed by Airport Authority staff, it is information that has been discussed and assembled by all parties involved in this discussion.

This information is being provided for City Council's consideration on how or whether to move forward on the creation of an independent airport authority for the future operation and development of the Asheville Regional Airport.

The Airport and Authority history is as follows: (1) the Asheville Regional Airport was built by the City of Asheville between 1958 and 1961 for the benefit of Western North Carolina and operated by the City of Asheville until 1979; (2) the Asheville Regional Airport Authority was

established in 1979 as a joint governmental agency organized and created by the City of Asheville and the County of Buncombe, pursuant to Article 20 of Chapter 160A of the General Statutes of North Carolina for the purpose of maintaining, operating, regulating and improving the Asheville Regional Airport; (3) the Authority since its creation has been successful in the development and operation of the Airport and has matured into a full self-sustaining enterprise requiring no local financial assistance for its operations, maintenance and capital programs; (4) the Airport has become a regional asset for all of Western North Carolina that supports economic development through aviation and non-aviation development, and critical aviation related services; and (5) the Authority will cease to exist under the current joint agency agreement in April, 2018, and the Airport will revert to the City of Asheville to operate, maintain and develop. Using maps, he reviewed the current Airport property boundary, the 1979 Airport property map, and the Airport property removed by the City.

The following are regional independent Authority benefits: (1) the region would benefit from a more permanent governance structure that will create an environment for long-term stability and growth of the Airport; (2) such a governance model will provide for recognition that the Airport is a regional asset serving all of Western North Carolina; (3) would create an independent Airport Authority which would hold title to all Airport assets; and (4) would provide for a more business-like model enhancing the ability of the Airport to support and stimulate economic growth of the region. City and County benefits (1) would relieve both the City and County of all responsibility for the development, operation, and maintenance of the Airport, as both entities have certain liabilities related to the Airport under the current governance structure; (2) would relieve the County and City of any current or future financial obligations for the Airport; (3) would insulate the City and County of any potential issues related to noise and growth impacts of the Airport; and (4) provides for the inclusion of Henderson County. The Airport and Authority benefits (1) would streamline processes such as grant acceptance, long-term leases, etc.; (2) would allow the Authority greater flexibility in property acquisition and development; (3) would provide for a stable governance model; (4) would facilitate needed financing for Airport improvements; and (5) would remove potential local political conflicts which may negatively impact the ability of the Airport to properly serve the region.

The draft legislation includes the following: 5 member Authority Board; 4 year terms; 2 appointments by the City of Asheville; 2 appointments by Buncombe County; and 1 appointment by Henderson County.

Using graphs, he showed the revenues and expenses and net income from Fiscal Year 2002 through Fiscal Year 2007. In addition, he reviewed the proposed budget for Fiscal Year 2007-2008.

Regarding diversification of revenues, airports need to diversify their revenue streams in order to be financially sound. This includes the development of certain airport property for non-aviation use. By diversifying revenues airports are able to maintain a cost structure which will help to retain and expand air service which is a commercial airport's primary mission. Without diversification of revenues, an airport's cost structure may become cost prohibitive to the point of deterring air service growth which in turn has a negative economic impact on the region.

Regarding dollars invested, the original City investment in land acquisition for the Airport was approximately \$270,000. The County supported the Airport with a \$5.5 Million bond issue for airport development. There is approximately \$2 Million in principal remaining with annual debt service payments of about \$400,000. The Airport/Authority cannot remit funds to the City directly from the Airport for the transfer of the Airport property based on federal regulations and further discussions with the Federal Aviation Administration (FAA).

Regarding reimbursement of past contributions, the final policy is that after the proposed policy was issued, Congress enacted legislation to limit the use of airport revenue for reimbursement of past contributions, and to limit claims for interest on past contributions. 49

U.S.C. sec. 47107 (l) (5), 47107 (p). The Final Policy incorporates these statutory provisions. Based on Congressional intent evidenced by the legislative history of these provisions, airport revenue may be used to reimburse a sponsor only for contributions or expenditures for a claim made after October 1, 1996, when the claim is made within six years of the contribution or expenditure. In addition, a sponsor may claim interest only from the date the FAA determines that the sponsor is entitled to reimbursement, pursuant to sec. 47107 (p). The FAA interprets these statutory provisions to apply to contributions or expenditures made before October 1, 1996, so long as the claim is made after that date.

Using maps, he showed future non-aviation development in the east and west areas. The estimated valuation of non-aviation development is \$563,593,560 (total land and building value). The estimated potential payment of lieu of taxes for non-aviation development (not by Airport) at build-out would be \$684,503 for the City; \$826,393 for Buncombe County; and \$2,303,337 for Henderson County.

The draft independent authority legislation has been submitted through the House, sponsored by Representative Goforth. In order for the bill to be introduced into the Senate crossover date of May 17, 2007, Representative Goforth needs direction as to whether the participating governing bodies desire to move ahead with the creation of the new Airport Authority.

Based on a 2006 economic impact study by the N.C. Dept. of Transportation, the Asheville Regional Airport provides the following estimated economic impact: Direct impact of 338 jobs, annual economic impact of \$44,053,000, and annual payroll of \$13,218,100; Indirect impact of 1,612 jobs, annual economic impact of \$156,311,600, and annual payroll of \$5,214,000; and imposed impact of 516 jobs, annual economic impact of \$37,985,300, and annual payroll of \$3,740,100. Totals jobs of 2,466, annual economic impact of \$238,349,900 and annual payroll of \$22,172,300. The Airport also provides the County with a significant source of property tax revenue with 134 based aircraft at a calculated value of \$63,200,000, which would result in ad valorem taxes of \$372,880 based on the county rate of \$0.59 per \$100. This study estimated that there were 174,250 visitors to the area that utilized the Asheville Regional Airport.

Proposed Option A - Summary: (1) create an independent Airport Authority which would include board representatives from the City of Asheville, Buncombe County and Henderson County; (2) the City would convey title of all Airport land and assets to the new Authority at no cost; (3) Henderson County would enter into an agreement with the City to resolve the Bent Creek property item and related water service items; (4) the Airport Authority would resolve to work with the City on a joint-use fire station at the Airport to assist the City in meeting its fire service needs in south Buncombe County; (5) specific language would be included in the independent Authority legislation related to a payment in lieu of taxes for non-airport related commercial business activities on Airport property; and (6) a reversionary provision would be included in the legislation that would convey all Airport land and assets back to the City if the independent Authority ceased to exist.

Proposed Option B - Summary: (1) create an independent Airport Authority which would include board representatives from the City of Asheville, Buncombe County and Henderson County; (2) the City would continue to lease all Airport land and assets to the new Authority at the current rate of \$1 per year; (3) the term of the lease would be for 25 years with an option for the Authority to extend the agreement for an additional 25 years; (4) Henderson County would enter into an agreement with the City to resolve the Bent Creek property item and related water service items; and (5) the Airport Authority would resolve to work with the City on a joint-use fire station at the Airport to assist the City in meeting its fire service needs.

Proposed Option C - Summary: (1) maintain the current governance structure between the City of Asheville and Buncombe County; (2) revise the current agreement to streamline

existing provisions and requirements outlined in the agreement; and (3) extend the term of the existing agreement.

Proposed Option D - Summary: Do nothing and let the current agreement run its course and expire in 2018.

Councilman Freeborn stated that his preference would be Option A.

Councilman Mumpower said that when this effort was initially initiated there was some belief that the City might receive more direct benefit in compensation for giving up this asset. Unfortunately oversight agencies limit the ability for the Airport Authority to do that. When we talk about regionalism, he feels that means Asheville is giving something up and other people are benefiting. That is not a fair exchange. He does see some advantages to the Airport, but they are secondary, not primary. The Airport has developed in good fashion under the existing parameters and as we get closer to the agreement deadline there might be some policy changes or windows of opportunities that may evolve, but to go in this direction now and get no more than the City of Asheville is getting seems a questionable policy decision.

Councilman Davis had a difficult time in finding the City's real advantage to this, noting that he does understand the Airport operations would run smoother and the idea of regionalism with Henderson County.

Councilman Newman when we talk about regionalism and facilities that could be merged, the Airport is an obvious one. Even though we are not getting a lot, based on the federal regulations we aren't giving up that much. This could have a significant positive benefit for Asheville's relationship at the regional level. He didn't want to rush into any decision, however, if Council wants to keep the door open to this and think through the questions, we could ask our legislators in the House to pass the bill with the full understanding and trust that nothing would happen in the Senate unless all parties, including Asheville, agrees to it. That is done in the legislature to keep ideas alive. If we miss the May 17 deadline, the issue will be dead for a year. He is supportive enough of the concept that he would like to keep the issue alive for consideration.

Mayor Bellamy suggested a hybrid option as follows: (1) extend the contract from 2018 for an additional 20 years so that the Airport can issue debt on the land or acquire new land to expand; and (2) change the composition of the existing board so that the current at-large seat is a Henderson County appointment. This will give the City at least one or two years (depending on the legislative cycle) to allow more time to discuss the issues. The City and Henderson County can then continue to talk about compensation for appointment to the board. In addition, the issue regarding the Bent Creek property and related water service items would be resolved.

City Attorney Oast said that to amend the interlocal agreement with the hybrid option would not require legislative action.

In response to Councilman Davis, Mr. Edwards said that they would like an extension on the existing agreement. There are some provisions in the agreement that we may be able to update in working with the City Attorney, e.g., grant approvals don't have to go to the City and County for approval if the Airport has the funds available to match it. He hoped that we can continue to move in a positive direction.

In response to Vice-Mayor Jones, Mr. Edwards said that the Airport Authority will be considering a resolution later this week that basically outlines that they will work with the City on the potential for a joint-use fire station at the Airport to assist the City in meeting its fire service needs.

In response to Councilman Mumpower, City Manager Jackson said that the service area of that joint-use fire station is the commercial development surrounding the Airport and our preliminary modeling supports a location in that area and we don't want to be precluded from the possibility of locating that on City land.

Mayor Bellamy felt that a third point in her bullet hybrid would be to have the Airport work with the City Attorney on ways to streamline specific provisions in the interlocal agreement using the example Mr. Edwards gave of not requiring City and County approval of the Airport receiving federal grant funds if the Airport has the funds available to match it.

Councilman Mumpower did not want to rush into this since there is no pressure for a decision to be reached now under the hybrid option. Until we get the equity nailed down, he didn't think we should move forward.

In response to Councilman Mumpower, City Manager Jackson recognized that there are some unanswered questions at this point. If there is a level of comfort from Council to move this forward to the crossover date, then that dialogue would continue. Staff supports (1) continuing the review and the dialogue in trying to keep the legislative option open; or (2) trying to address some of the issues with Henderson County, since we have made significant progress with them.

Vice-Mayor Jones moved to support the hybrid option to (1) extend the contract from 2018 for an additional 20 years so that the Airport can issue debt on the land or acquire new land to expand; (2) change the composition of the existing board so that the current at-large seat be a Henderson County appointment; and (3) have the Airport work with the City Attorney on ways to streamline specific provisions in the interlocal agreement using the example Mr. Edwards gave of not requiring City and County approval of the Airport receiving federal grant funds if the Airport has the funds available to match it. This motion was seconded by Councilman Freeborn.

City Attorney Oast said that Council will need to see this item again because they will need to formally vote on amending the interlocal agreement by resolution.

Vice-Mayor Jones felt that the hybrid option (1) cleans up the property exchange with Henderson County; (2) helps the Airport do business, which indirectly benefits Asheville too; (3) shows good will by the Airport Authority to work on the fire station regardless of what is done tonight; and (4) is a step in the right direction in terms of something that the state delegation is interested in seeing move forward in some degree. She doesn't see a huge win for Asheville, but there are some positives. If we make good efforts and there are some reciprocal negotiations that maybe we can get to the next level in two years.

After Councilman Newman said that a disadvantage of the hybrid option is that there will be substantial development around the Airport and all that will be government property and there will be no contribution to our tax base, a brief discussion was held resulting in City Attorney Oast stating that there are some substantial restrictions on the disposition that can be made of Airport revenues but he would investigate whether we can put a requirement in the interlocal agreement for a payment in lieu of taxes by the tenant.

Councilman Freeborn noted that whatever Council agrees to tonight still has to be approved by Buncombe County.

The motion made by Vice-Mayor Jones and seconded by Councilman Freeborn carried on a 5-2 vote, with Councilman Mumpower and Councilman Newman voting "no."

Councilman Newman moved for City Council (1) to send a resolution to our legislators expressing Council's openness to Option B (the lease option with the Airport); and asking our legislators to support legislation that would keep Option B alive past the crossover date while expressing Asheville's clear intent that no action will be taken to move this legislation to the

Senate until all parties, including Asheville, ask them to.; and (2) ask the Mayor to personally contact the Buncombe County State Senator and get his word that that is his clear understanding, again expressing our clear intent that we have not endorsed Option B and we are not raising expectations that we will follow-through with it, but just simply keeping that option open. This motion was seconded by Vice-Mayor Jones.

Councilwoman Cape confirmed that we are asking for a little more time to do further investigation of all the facets of Option B. She didn't like outlined benefit of insulating the City and County of any potential issues related to noise and growth impacts of the Airport. People in that area need the opportunity to speak about noise and growth and she would like more information on the governance structure in terms of the Authority.

City Attorney Oast confirmed that the motion which was approved supporting the hybrid option means that City staff will work with Buncombe County to develop some amendments to the interlocal agreement to accomplish the hybrid facets. That will come to Council through a resolution to amend the interlocal agreement. The motion by Councilman Newman is to preserve our options of the independent Airport Authority, but not necessarily endorsing it one way or the other.

The motion made by Councilman Newman and seconded by Vice-Mayor Jones carried on a 6-1 vote, with Councilman Mumpower voting "no."

At 10:20 p.m., Mayor Bellamy announced a short break.

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING REVISIONS TO THE LANDSCAPE STANDARDS

Mayor Bellamy said that this public hearing was held on April 10, 2007, and continued to this date. However, City staff has requested that the action be continued until May 22, 2007. Therefore, Councilman Mumpower moved to continue this action until May 22, 2007. This motion was seconded by Vice-Mayor Jones and carried unanimously.

C. CONTINUATION OF PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING REVISIONS TO THE OPEN SPACE STANDARDS

Mayor Bellamy said that this public hearing was opened on April 24, 2007, and continued to this date. However, due to the lateness of the hour, Councilman Mumpower moved to continue this public hearing until June 19, 2007. This motion was seconded by Councilwoman Cape and carried unanimously.

D. CONTINUATION OF PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING RETAINING WALL REQUIREMENTS

Mayor Bellamy said that this public hearing was opened on April 24, 2007, and continued to this date. However, due to the lateness of the hour, Councilman Mumpower moved to continue this public hearing until June 19, 2007. This motion was seconded by Councilwoman Cape and carried unanimously.

E. CONTINUATION OF PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING STEEP SLOPE AND RIDGETOP REQUIREMENTS

Mayor Bellamy said that this public hearing was opened on April 24, 2007, and continued to this date.

Planning & Development Director Scott Shuford said that at the April 24, 2007, meeting when Council first considered the ordinance, a fairly wide range of alternative ideas about the area to which the steep slope requirements should apply were proposed, including alternatives suggested by the Planning and Zoning Commission and a Chamber of Commerce subcommittee. Council expressed some interest in a possible alternative to the staff recommendation that recognized that, regardless of elevation, slopes below 25% were less problematic for development than those at or above that percentage. Council also requested information on the bonus requirements and whether the light reflectivity value standards could be mandatory as opposed to being associated with a height bonus. Additionally, Council wanted some follow-up on the takings and geotechnical analysis issues.

Taking the last issue first, he previously provided Council members with information from Dr. Rick Wooten of the North Carolina Geological Survey who is perhaps the foremost expert on landslides in NC. This information suggests that the threshold for requiring a geotechnical analysis proposed by staff and the Planning and Zoning Commission is entirely reasonable. If, however, Dr. Wooten's slope stability analysis for Buncombe County finds unique circumstances that require adjustment to this threshold, staff is prepared to pursue appropriate changes to the ordinance at that time. We do not recommend any adjustment to this standard except in its application (see below).

With regard to where the requirements should apply, staff has examined the information provided by the public and we have the following suggestions:

Areas below 2,220 feet in elevation having 25% or greater slope. First, the prior staff recommendation proposed extending slope requirements into areas below the long-standing "hillside" elevation threshold of 2,220 feet when slopes were 25% or greater. This significantly extended the area covered by the regulations but primarily applied to scattered sites of a few acres or smaller in size. Public comment noted that these areas often offered infill development opportunities having been previously passed over for development on adjoining less steep slopes. Given these circumstances, staff suggests that Council consider exempting steep slope areas below 2,220 feet in elevation from all requirements proposed for steep slope areas above 2,220 feet except the geotechnical analysis requirements (which would apply once the slope reached 40% or greater or if the area represented a moderate to high risk for landslides). The development of these areas would be governed by underlying zoning and general grading requirements.

Areas above 2,220 feet in elevation and having slopes between 15 and 24.9%. Public comment has noted that slopes below 25% were less problematic for development than those at or above that slope percentage. Whether areas of such slope represent major opportunities for affordable housing is debatable, but these areas are certainly better suited for development than those having slopes above 25% and are often on lower, less visible sections of mountainsides. Given these circumstances, staff suggests the Council consider substantially increasing the amount of grading and allowable density in these areas from what staff previously recommended, in effect essentially maintaining the current hillside grading and density limits. The recommended adjustments are illustrated in the following tables. The other proposed requirements, including tree preservation, road corridor design, height, etc. would remain in effect for these areas.

EXISTING GRADE	PERCENT GRADING	
	PRIOR	NEW
15-19%	45%	65%
20-25%	40%	55%

MAXIMUM NUMBER OF UNITS PER ACRE BY EXISTING GRADE										
Existing Grade	RS-2		RS-4		RM-6		RS-8 RM-8		RM-16 +	
	P	N	P	N	P	N	P	N	P	N
15%-19%	1.2	1.4	1.8	2.5	2.7	3.8	3.6	5.0	7.2	10.0
20%-24%	1.0	1.2	1.4	2.0	2.4	3.0	3.2	4.0	5.6	7.5

KEY: P=PRIOR N=NEW

Areas above 2,220 feet in elevation and having slopes 25% or greater.
No changes recommended.

With regard to the question about the relationship between grading allowances, tree preservation requirements and the density/intensity bonus requirements, it seems there is confusion between what parts of the site are allowed to be graded and what parts preserved to create a bonus. The key issue is that a preservation easement would be required to obtain a bonus. In other words, a significant portion of the site would have to be set aside and governed by a preservation easement in order to qualify for a bonus. You could not count up the percent of each lot in a subdivision that isn't allowed to be built on and claim a density bonus, for example.

NCGS 160A-381 provides that zoning ordinances may promote health, safety, morals and general welfare of the community. The law provides specifically that a zoning ordinance may regulate many aspects of buildings and structures, including height, lot coverage, and open space. Other aspects of buildings may be regulated, but a connection must be established the regulation the legitimate purposes of regulation, and this has been an evolving concept over the years. With regard to using light reflectivity value (LRV) as a requirement instead of as a condition of a height bonus, LRV is an objective, measurable factor, qualitatively no different from a setback requirement, but it is nevertheless a somewhat untested concept. If a connection can be made between LRV and the purposes for which regulation is permitted, with findings in the ordinance, then such a regulation would be legally defensible. In general, regulations such as LRV are always easier to apply when they are the landowner's choice rather than a requirement. With this in mind, a low LRV as a condition for a height bonus would be easier to enforce and would clearly alert the affected property owner to the regulation. If council chooses to make low LRV a requirement, it is suggested that the regulation only apply when the structure exceeds a certain height.

With regard to the concern raised about the ordinance constituting a "taking," the following comments that may require additional elaboration from the City Attorney. Successful takings claims involve a demonstration that no reasonable use of the property may be allowed under a regulation. Since the proposed steep slope regulations create density/intensity reductions based on empirical requirements that have a demonstrated public purpose (e.g., less density on steeper slopes), but do not preclude the use of any affected property for land uses allowed in the underlying zoning, and since the application of the ordinance would be subject to a variance in appropriate circumstances, he believed the likelihood for a successful takings case is extremely limited.

Staff would like to receive Council direction on the above issues and any others you may wish to consider at the May 8, 2007, meeting. We would then return on May 22, 2007,

with a revised ordinance that reflects that direction instead of attempting to wordsmith Council's comments immediately at the May 8 meeting.

He said that he has received two letters, which he passed out to Council, from Suzanne Molloy and Neil Thomas.

Mr. James Wood suggested that the N.C. Dept. of Environmental and Natural Resources numbers be posted at the construction sites when there is the potential for erosion or stormwater issues to let people know who they can contact to deal with the impact.

Mr. John Carroll, President of the Council of Independent Business Owners, said that the steep slope ordinance is a very complex issue and can have unintended consequences. In relationship to what has been presented, he asked Council to consider (1) that this is a private property right issue; (2) is very heavily affecting affordable housing in our community; (3) affects the future of our community; and (4) the solution is not a one size fits all. The issue of viewshed needs to be looked at along with the issues of safety. On some of the very steep slopes we have in our area Council may want to rely on geotechnical reviews in order to help make decisions.

An engineer with LandDesign talked about what is a steep slope and what it actually measures to. He finds that a 30% slope is pretty much a breakpoint where costs and things become more excessive. Using maps he showed drawings of homes with a 30% slope, 25% slope and a roadway with a 30% cross slope. In addition he showed a slope analysis. He felt that an affordable project is doable on a 30% slope and over 30% slope you should have a geotechnical analysis.

Mr. Gerald Green, Asheville resident, felt that may be a reason to have a different standard for urban areas, near urban areas and suburban areas. He also felt that City Council needs to clarify the intent of the ordinance.

Mr. Albert Sneed spoke against the ordinance. He felt that people who have invested to build on their lot will be hurt if this ordinance is enacted. He urged Council to specify what the goal is and send it back to the Planning & Zoning Commission with specific instructions.

Mr. Paul Zurick, representing Biltmore Farms, said that the bottom line is about sustainability. There needs to be a balance of mixed housing and jobs. The City has a limited amount of developable land and it should be used as prudently as possible. He urged Council, especially as it relates to the 15-25% slopes to step back so that we can retain the focus on sustainability.

Mr. Robert Cox, owner of steep slope property, explained how he bought his lot for its view and how his property will be severely affected by this proposed ordinance.

Mr. Jay Quinn, Asheville resident, was concerned about grading in the 15-19% range and the 20-25% range.

Mr. Joel Bassett, Asheville resident, questioned how the drafted state legislation will impact our ordinance.

Mayor Bellamy closed the public hearing at 10:59 p.m.

Throughout the considerable discussion, the following questions/comments were raised by Council and responded to, mainly by Mr. Shuford: how does the draft state legislation impact our ordinance; look at some opportunities for utilizing visualization, along with public input sessions, for understanding these issues; look at how we structure the

ordinance in terms of readability; can we use the fee in lieu of for sidewalks if sidewalks can't be built in the area; how many houses have slid off existing slopes in Asheville; how would the lot on Dr. Martin Luther King Drive by the red light be affected by this ordinance; and above 2220, do we, or how do we regulate slopes between 15-25%.

Councilwoman Cape suggested we require the LRV. There needs to be further discussion on where we apply the geotechnical analyses. She still has questions on the height in the ordinance. She wants to move the ordinance forward in terms of the basic, but there is a lot more work that we need to discuss and perhaps send it back to the Planning & Zoning Commission for things like recognition of viewshed, LRV, roof massings and whether gutters and curbs need to be on the roads, etc.

Councilman Newman felt that the proposal seems to achieve some of our goals, but some parts still don't go far enough in terms of protecting public safety. Information he has seen from the N.C. Geological Survey indicates that the risk of land movements and slides starts at about 36%. He moved that geotechnical analysis be required on all slopes of 36% or more regardless of zoning, and regardless of elevation, as well as all identified hazard areas as per the future mapping that will come out by the N.C. Geological Survey identifying areas that are significant slide risks based on soils and geology. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

Councilman Mumpower didn't think this is about safety, but about trying to fix a potential problem. He felt this is just another level of bureaucracy.

Councilman Newman moved to support staff's recommendation of no application below 2,220 feet, except for geotechnical analysis requirements which would apply once the slope reached 36% or greater (as described and voted on earlier). This motion was seconded by Vice-Mayor Jones.

Councilman Freeborn made a friendly amendment to clarify Councilman Newman's motion to say that we will not apply the steep slope ordinance to anything below 2220 feet except for the requirements of the geotechnical analysis.

The clarified original motion made by Councilman Newman and seconded by Vice-Mayor Jones carried on a 6-1 vote, with Councilman Mumpower voting "no."

Councilwoman Cape moved that above 2220 feet, single-family residences be included in our existing hillside ordinance. This motion was seconded by Councilman Freeborn. City Attorney Oast said that Council is asking to amend our hillside ordinance and because that is a zoning amendment, it will need to go through the Planning & Zoning Commission first.

After discussing several options regarding the number of feet in which to apply the ordinance in slopes of 25% or greater, Mr. Shuford said that Council has given him things that can be changed to this particular ordinance to address the issues. If Council would like, we can take some of these examples given and produce some information similar to what we did with the Planning & Zoning Commission's 2500 foot elevation and give Council some idea of the amount of the existing hillside area that would be affected by these different things and then Council would have a basis for making a decision. He suggested Council instruct staff to look into that area and come back in a couple of weeks without having to go back to the Planning & Zoning Commission for more input.

At the suggestion of Mayor Bellamy, it was the consensus of Council to hire a consultant, if necessary, to develop a visualization tool for Council to see the different impacts of our community. Mayor Bellamy also suggested a Council bus tour of the different elevations.

Councilwoman Cape suggested using the N.C. Geological Survey mapping model as a viewshed area or a slope area rather than picking an elevation area.

Mr. Shuford said that it sounds like Council is interested in having the final version of the information from the N.C. Geological Survey before making any decisions and that will come out sometime mid-summer. He suggested Council table the steep slope ordinance until after the N.C. Geological Survey is available. During that time staff will work on the analysis suggested by Mayor Bellamy and make some other suggestions to Council and perhaps get a couple of the other issues worked out. In the meantime, we have a good ordinance that serves the city well for 30 years with the hillside regulations.

Councilwoman Cape suggested mapping the priority viewshed area and pull them out as an overlay district for hillside and steep slope regulations.

At the request of Councilwoman Cape, it was the consensus of Council to instruct Mr. Shuford to put the amendment regarding including single-family homes in the hillside regulations on the Planning & Zoning Commission's June agenda.

After discussion, Councilman Freeborn moved to schedule a worksession on June 12, 2007, from 4-5:00 p.m., in the Council Chamber of the City Hall Building, in order to look at the maps and data. This motion was seconded by Vice-Mayor Jones and carried on a 6-1 vote, with Councilman Mumpower voting "no."

VI. NEW BUSINESS:

A. RESOLUTION NO. 07-97 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR PARTISAN ELECTIONS

RESOLUTION NO. 07-98- RESOLUTION SETTING A PUBLIC HEARING ON THE QUESTION OF AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR PARTISAN ELECTIONS

City Attorney Oast said that this is the consideration of a resolution of intent to amend the Charter of the City of Asheville to provide for partisan election

North Carolina law provides that a city may change several features of its form of government. One of the features it may change is to provide that elections be partisan elections.

The process prescribed for this amendment is:

1. Adoption of a resolution of intent
2. Public hearing (10 days notice; not more than 45 days following resolution of intent)
3. Adoption of ordinance amending charter (not earlier than next regular meeting; not more than 60 days after public hearing)
4. Publication of notice within 10 days of adoption of ordinance.

The amendment to the Charter must have been finally adopted and approved at least 90 days prior to the first election for Mayor or Council held pursuant thereto. Pursuant to N.C.G.S. 163-279, for municipal elections held on a partisan basis, the first primary is held on the second Tuesday after Labor Day, which this year is September 11. This means that the ordinance must be finally adopted on or before June 12.

With Council's current regular meeting schedule, there is just enough time to complete the process in time for the September 11 primary, if the following schedule is observed:

May 8 – Adoption of Resolution of Intent
May 22 – Public hearing
June 12 – Adoption of ordinance
September 11 – Hold first primary

Council may, but does not have to, provide that the amendment is only effective upon a vote of the people at a special election to be held within 90 days. If no such election is provided for by Council, the voters may force a referendum on the question by petition. If such an election is called by either method, it would lengthen the time for completing the amendment process, such that the amendment would not be effective in time for the 2007 election.

In 1994, using a similar process, Council amended the Charter to change from partisan to non-partisan elections. In 1997, the Charter was again amended to provide for four-year staggered terms.

The Institute of Government reports that, of the 500 plus municipalities in North Carolina, 9 of them use a partisan election system, including Charlotte and Winston-Salem, among the larger cities.

A resolution of intent to amend the Charter is presented for Council's consideration. If the resolution is adopted, it will be necessary to set a date for a public hearing.

Councilman Newman said that the public hearing would be on the question of involving political parties in Asheville municipal elections. He thinks City Council should consider this is because (1) political parties are already involved in municipal elections in that they have actively supported the candidates from their party by raising funds, sending out mailings, etc.; (2) a Council member's basic philosophy has a direct bearing on how they tend to view the issues; and (3) having this process creates a level playing field between both the political parties in the general municipal elections.

Mr. Jay Quinn, Asheville resident, felt that the way the elections are run now is adequate, but we should do away with all Council members being elected at large.

Mayor Bellamy said that members of Council have been previously furnished with copies of the resolutions and they would not be read.

Vice-Mayor Jones moved to adopt the resolution of intent to consider an ordinance to amend the Charter of the City of Asheville to provide for partisan elections. This motion was seconded by Councilwoman Cape.

Councilman Mumpower was concerned that we are creating artificial hurdles for independent and third party candidates to get their names on the ballot. He felt that Council still needs to address the issue of the 4th seat on Council.

Mayor Bellamy noted that Council did address the issue of the 4th seat, but that there was not a majority of Council to ask that the Charter be amended to say that the 4th highest vote-getter automatically would get the empty seat. Councilman Mumpower felt Council should then look at different options to address that concern.

Councilman Davis would support a public hearing on this issue and would also support addressing the issue of the 4th seat at a later date.

Councilman Mumpower asked for information that provides examples of the modeling standard across the state of a weak mayor, professional manager model compared to a strong

mayor model. He thinks that we will find that there will be non-partisan elections for cities with a system such as ours - the weak mayor, professional manager model.

Mayor Bellamy said that in reality, the position of Mayor should be a full-time position and treated as such. She would like to see that changed in our Charter. She explained why the other reality is that partisan elections make the hurdles harder for African Americans.

Councilman Newman said that if he thought changing to partisan elections would affect minority involvement, he would absolutely oppose it but he hasn't seen any evidence of that. He cited Winston-Salem and Charlotte as having strong minority representation on Council. He thinks that one of the potential benefits of it would be that it could potentially lower the cost for candidates to run for office.

Mayor Bellamy noted that in Charlotte they have ward system and districts are drawn so that African Americans can have a presence on the Council.

The motion made by Vice-Mayor Jones and seconded by Councilwoman Cape carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 30 - PAGE

Councilwoman Cape moved to set a public hearing on May 22, 2007, to consider amending the Charter of the City of Asheville to provide for partisan elections. This motion was seconded by Vice-Mayor Jones and carried on a 5-2 vote, with Mayor Bellamy and Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 30 - PAGE

B. BOARD OF ELECTIONS NEW ELECTION UPDATE

Mayor Bellamy said that she has received the following information from Ms. Trena Parker, Director of Elections, regarding instant runoff voting in North Carolina. Said information read "The General Assembly approved pilot programs for 10 cities and 10 counties. This would allow the City of Asheville to hold only one election-essentially combining the primary and general. The Board of Elections Chair, Jones Byrd, has spoken with Mayor Bellamy regarding the possibility of the City of Asheville being one of the pilot elections. The Elections Board has not decided either way and thought it best to pass along this information for your consideration."

VOTING

When the Instant Runoff Voting (IRV) method is used for a particular contest, voting for one's top choice or choices is the same as if IRV were not used. Each voter is allowed to vote for as many candidates as there are seats to be filled in column A (see Exhibits – Example IRV Ballots). Each voter is then allowed the opportunity to indicate two alternate candidate choices, one per column in each of columns B and C, ranked in order of preference.

For example, in the Office of Mayor contest there is one seat to be filled. Each voter may vote for one candidate in column A, and then may indicate a first alternate candidate choice in column B, and a second alternate candidate choice in column C. In the City Council At-Large contest there are two seats to be filled. Each voter may vote for as many as two candidates in column A, and then may indicate a first alternate candidate choice in column B, and a second alternate candidate choice in column C.

COUNTING – FIRST ROUND

In the first round of counting, all ballots will be counted exactly as if IRV were not used, counting only the results in column A. At the completion of the first round of counting, if it is determined that a sufficient number of candidates received total votes exceeding the threshold of victory for all seats in that contest to be filled, normal procedures apply and there will be no need for a second round of counting. If not all seats are filled, those candidates who have won seats will be removed from further consideration, and a number of candidates not exceeding twice the number of remaining seats to be filled will advance to the second round of counting, those candidates being the ones with the greatest numbers of first round votes.

COUNTING – SECOND ROUND

If a second round of counting is required, each office shall be counted separately according to the following procedures:

A) Counting a single-seat contest:

- 1) Ballots shall be maintained in separate groups according to where or how they were cast, by precinct or one-stop polling locations, or by mail.
- 2) For each such group, ballots shall be separated into three stacks, designated **Stack A, Stack B, and Stack C.**
- 3) If a ballot contains a vote in column A for either runoff candidate, it shall be placed into Stack A. Because these votes have already been counted in the first round, there is no need to count them again.
- 4) If a ballot does not contain a vote in column A for either runoff candidate, but does contain a vote in column B for either runoff candidate, it shall be placed into Stack B.
- 5) All remaining ballots shall be placed into Stack C.
- 6) Stack B ballots shall be counted by machine or by hand. Only those votes cast for either runoff candidate in column B shall be considered. These totals shall be added to the totals for those candidates from the first round of counting.
- 7) Stack C ballots shall be counted by machine or by hand. Only those votes cast for either runoff candidate in column C shall be considered. These totals shall also be added to the totals for those candidates from the first round of counting.
- 8) Repeat steps 1-7 as necessary until all ballots for the entire jurisdiction have been counted.
- 9) The runoff candidate with the greatest total votes shall be declared the winner.

B) Counting a multi-seat contest:

- 1) Ballots shall be maintained in separate groups according to where or how they were cast, by precinct or one-stop polling locations, or by mail.
- 2) For each such group, ballots shall be separated into five stacks, designated **Stack A, Stack B, Stack B2, Stack C, and Stack D.**
- 3) If a ballot contains as many votes in column A as there are total seats to be filled, and all such votes are for candidates who either won seats in the first round or advanced to the second round, it shall be placed into Stack A. Because these votes have already been counted in the first round, there is no need to count them again.
- 4) If a ballot contains in column A exactly one vote fewer than the number allowed or exactly one vote for a candidate who did not win a seat in the first round and did not advance to the second round, and does contain a vote in column B for any runoff candidate not already voted for in column A, it shall be placed into Stack B.
- 5) If a ballot contains in column A more than one fewer votes than the number allowed or more than one vote for candidates who did not win seats in the first round and did not advance to the second round or at least one of each of these, and does contain a vote in column B for any runoff candidate not already voted for in column A, it shall be placed into Stack B2.

- 6) Of all remaining ballots, any which contains in column C a vote for a runoff candidate already voted for in column A or B shall be placed into Stack D, and the rest shall be placed into Stack C.
- 7) Stack B2 ballots shall be counted by machine or by hand. Only those votes cast for a runoff candidate in column B shall be considered. These totals shall be added to the totals for those candidates from the first round of counting.
- 8) All Stack B2 ballots which contain in column C a vote for a runoff candidate already voted for in column A or B shall be placed into Stack D, and the rest shall be placed into Stack C.
- 9) Stack B ballots shall be counted by machine or by hand. Only those votes cast for a runoff candidate in column B shall be considered. These totals shall be added to the totals for those candidates from the first round of counting.
- 10) Stack C ballots shall be counted by machine or by hand. Only those votes cast for a runoff candidate in column C shall be considered. These totals shall also be added to the totals for those candidates from the first round of counting.
- 11) Repeat steps 1-10 as necessary until all ballots for the entire jurisdiction have been counted.
- 12) The runoff candidate with the greatest total votes shall be declared the winner of a seat in this contest.
- 13) If not all seats have been filled, for each precinct or other ballot group recombine all ballots, then repeat steps 1-12 to determine the next winner.

Mayor Bellamy asked Council if they wish to participate in the IRV pilot program.

Rev. Christopher Chiaromonte felt this would be a fair way to save taxpayers time and money.

Ms. Leesa Kulba spoke against the IRV.

Councilwoman Cape said that this has been used in other countries with great success. She thinks there is an educational process in it and would be interested in knowing more about it.

Councilman Davis moved that the City of Asheville not participate in the Instant Runoff Voting method. This motion was seconded by Councilman Mumpower and carried on a 6-1 vote, with Councilwoman Cape voting "no."

VII. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of March 30 - April 26, 2007: Joseph R. Martin (Transit Services), Helen Brown (Streets), Barbara Ayers (Water), Solomon Norwood (Streets), Debra McIntosh (Sanitation), Michelle Koussa (Streets), Cindy Tate (Streets), Greg Turner (Streets) and Jim Wilson (Streets).

These claims have been referred to Asheville Claims Corporation for investigation.

B. LAWSUIT

The City was served with the following Complaint on April 21, 2007: Reid Thompson v. City of Asheville and Greenlife Grocery of Asheville, LLC. The nature of the proceeding is a petition for writ of mandamus and certiorari to compel the City and Greenlife to comply with the Unified Development Ordinance and noise ordinance. This matter will be handled in-house.

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Randy Teague asked City Council to adopt a resolution supporting incorporation of the Town of Leicester. Mayor Bellamy stated that City Council place this item on an upcoming agenda for consideration.

Rev. Christopher Chiaromonte spoke about the poor treatment of the homeless in Asheville.

CLOSED SESSION

At 12:16 a.m., Mayor Bellamy announced that the closed session would continue.

At 12:25 a.m., Councilman Newman moved to come out of closed session. This motion was seconded by Councilman Freeborn and carried unanimously.

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 12:25 a.m.

CITY CLERK

MAYOR